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20 Attorneys for Plaintiff
21 Gen-Probe Incorporated

22 UNITED STATES DISTRICT COURT
23 SOUTHERN DISTRICT OF CALIFORNIA

24 GEN-PROBE INCORPORATED,
25
26 Plaintiff,
27
28 v.
29
30 VYSIS, INC.,
31
32 Defendant.

No. 99cv2668 H (AJB)

**STIPULATION AND ~~PROPOSED~~ ORDER
ALLOWING GEN-PROBE INCORPORATED TO
FILE UNDER SEAL CERTAIN DOCUMENTS UPON
WHICH IT RELIES TO SUPPORT ITS MOTION
FOR PARTIAL SUMMARY JUDGMENT**

33 I. FACTS

34 1. On September 18, 2000, this Court entered a Protective Order to govern the use and
35 disclosure of confidential information disclosed in discovery in this litigation, a true and correct
36 copy of that Protective Order and the subsequent amendment thereto are attached hereto as Exhibit
37 A. Pursuant to paragraph 13 of the Protective Order, no documents shall be filed under seal unless
38 the Court issues a separate Order upon application of the affected party.

FILED

01 MAY -4 PM 2: 13

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *Calvin* DEPUTY

ORIGINAL

2. Gen-Probe Incorporated ("Gen-Probe") is now moving for partial summary judgment and among other things relies upon information Defendant Vysis, Inc. ("Vysis") has designated under the Protective Order as being confidential to support that motion.

3. As Exhibit 9 in support of its Motion for Partial Summary Judgment, Gen-Probe relies upon excerpts from the transcript of the deposition of Jonathan Lawrie, Ph.D. taken February 15, 2001. Pursuant to the Protective Order, Vysis designated the transcript of Dr. Lawrie's deposition as Confidential.

4. As Exhibit 10 in support of its Motion for Partial Summary Judgment, Gen-Probe relies upon excerpts from the transcript of the deposition of James Richards, Ph.D. taken March 30, 2001. Pursuant to the Protective Order, Vysis designated portions of the transcript of Dr. Richards' deposition as Confidential-Attorney's Only.

5. The relevant portions of Drs. Lawrie and Richard's deposition transcripts are contained in the sealed envelope attached hereto as Exhibit B and therein are labeled as Exhibits 9 and 10, respectively.

II. STIPULATION

The parties, through their respective counsel, stipulate that the portions of Drs. Lawrie and Richards' deposition transcripts upon which Gen-Probe relies to support its Motion for Partial Summary Judgment shall be filed under seal in accord with the terms of the Protective Order entered in this case.

Dated: April 30, 2001

STEPHEN P. SWINTON
J. CHRISTOPHER JACZKO
COOLEY GODWARD LLP

DOUGLAS E. OLSON
BROBECK PHLEGER & HARRISON LLP

R. WILLIAM BOWEN, JR.
GEN-PROBE INCORPORATED

By 

J. Christopher Jaczko

Attorneys for Plaintiff
Gen-Probe Incorporated

No. 99cv2668 H (AJB)

1 Dated: April 30, 2001

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Thomas W. Banks

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Vysis, Inc.

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9 **IT IS SO ORDERED**

10 Gen-Probe may file the excerpts of Drs. Lawrie and Richards' deposition transcripts upon
11 which its relies to support its Motion for Partial Summary Judgment under seal in accord with the
12 terms of the Protective Order entered in this case.

13 Dated: 5/3/01

Maurice L. Huff
JUDGE OF THE DISTRICT COURT